

ORIGINAL

FILED

JUN - 7 2018

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

CLERK, U.S. DISTRICT COURT

By  
United States Court of Appeals  
Fifth Circuit Deputy

FILED

May 16, 2018

Lyle W. Cayce  
Clerk

No. 17-10960  
Summary Calendar

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

JOSE RAMIREZ,

Defendant-Appellant

Appeal from the United States District Court  
for the Northern District of Texas  
USDC No. 4:17-CR-53-1 - A

Before JOLLY, OWEN, and HAYNES, Circuit Judges.

PER CURIAM:\*

Jose Ramirez pleaded guilty to possession with intent to distribute a controlled substance and was sentenced within the Guidelines to 180 months of imprisonment, to be followed by 3 years of supervised release. On appeal, he contends that the district court violated his constitutional rights under the Confrontation Clause and Due Process Clause when, in imposing his sentence,

\* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

No. 17-10960

the court relied on information from the presentence report about his other criminal activity.

Even so, Ramirez moves for summary disposition of his appeal because he concedes that the issue is foreclosed by this court's decisions in *United States v. Beydoun*, 469 F.3d 102, 108 (5th Cir. 2006), and *United States v. Navarro*, 169 F.3d 228, 236 (5th Cir. 1999). He states that he seeks to preserve the issue for further review. As Ramirez observes, his rights under the Confrontation Clause do not extend to sentencing proceedings. *See Beydoun*, 469 F.3d at 108. Moreover, we have previously rejected that the denial of the right to confront witnesses at a sentencing hearing was a due process violation. *See United States v. Salas*, 182 F. App'x 282, 284 & n.7 (5th Cir. 2006).

Because Ramirez's arguments are indeed foreclosed, his motion for summary disposition is GRANTED. The judgment of the district court is AFFIRMED.